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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

LAURI VALJAKKA

Plaintiff,

v.

NETFLIX, INC.

Defendant.

Case No.: 4:22-cv-01490-JST

DEFENDANT NETFLIX, INC.'S MEMORANDUM IN SUPPORT OF ITS OPPOSITION TO WILLIAM RAMEY'S MOTION FOR PARTIAL ENTRY OF FINAL JUDGMENT

Defendant Netflix, Inc. ("Netflix") opposes William Ramey's Motion For Partial Final Judgment Pursuant to Federal Rule of Civil Procedure 54(b), ECF No. 354.

On July 10, 2025, the Court found William Ramey ("Ramey") had violated the Protective Order "by sharing confidential material covered by that order with unauthorized parties, namely attorneys employed by AiPi." Order, ECF No. 324, at 7:5-9. On November 19, 2025, the Court ordered Ramey and his law firm to pay Netflix its reasonable fees by December 17, 2025. ECF No. 353, at 5:15-16.

On November 21, 2025, Ramey moved the Court "for entry of partial final judgment under Federal Rule of Civil Procedure 54(b)" as to those Orders. Mot., ECF No. 354.

No Basis Under Rule 54(b). Ramey's Motion should be denied in its entirety. Controlling Supreme Court and Ninth Circuit authority prohibit immediate appeal of the Orders against Ramey, and Rule 54(b) cannot be used to circumvent that prohibition.

In *Cunningham v. Hamilton County*, 527 U.S. 198 (1999), the Supreme Court unanimously held that an order imposing monetary sanctions on an attorney under Rule 37(a)(4) (a former attorney no longer representing any party) is not a "final decision" under 28 U.S.C. § 1291 and is not immediately appealable while the underlying case remains pending. *Cunningham*, at 210.

The Ninth Circuit applied *Cunningham* directly to identical circumstances in *Stanley v. Woodford*, 449 F.3d 1060 (9th Cir. 2006). There, a former attorney was sanctioned under § 1927 and the court's inherent power for violating a court order; the attorney was no longer counsel of record and had no continuing role in the case. The Ninth Circuit held it lacked appellate jurisdiction and dismissed the appeal. *Id.*, at 1063 ("*Cunningham* effectively overruled earlier Ninth Circuit decisions allowing immediate appeal by attorneys from orders imposing sanctions."). Since, the Ninth Circuit has "held, as a categorical matter, that orders imposing sanctions under § 1927 may not be immediately appealed[.]" *Caekaert v. Brumley*, No. 23-35329, 2024 WL 2717403, at *1 (9th Cir. May 28, 2024). That is, *Cunningham* and *Stanley* bar immediate appeal of sanctions orders against non-party attorneys regardless of the type of sanction. *Klestadt & Winters, LLP v. Cangelosi*, 672 F.3d 809, 817 (9th Cir. 2012) (collecting cases).

The facts here are indistinguishable from *Cunningham, Stanley* and their progeny. Ramey is Valjakka's former counsel, sanctioned for violating this Court's Protective Order. Ramey has no continuing role in the case and the underlying action remains pending. *Cunningham* and *Stanley* therefore control, and foreclose any immediate appeal.

Ramey cites *Curtiss-Wright* and *Sears, Roebuck*, but those cases do not support his request. They involve separate substantive claims between parties, not collateral sanctions against non-parties. "District courts . . . do not have the discretion under Rule 54(b) to convert a non-final judgment into a final judgment. The district court cannot, in the exercise of its discretion under Rule 54(b), treat as final that which is not final within the meaning of § 1291." *Bates v. Bankers Life & Cas. Co.*, 848 F.3d 1236, 1237 (9th Cir. 2017).

No Basis Under Section 1291(b). Certification under § 1292(b) requires "(1) that there be a controlling question of law, (2) that there be substantial grounds for difference of opinion, and (3) that an immediate appeal may materially advance the ultimate termination of the litigation." *In re Cement Antitrust Litig.* (MDL No. 296), 673 F.2d 1020, 1026 (9th Cir. 1981).

Ramey argues, "whether smaller law firms are allowed to affiliate services of lawyers while representing clients under the terms of a protective order where the Protective Order defines Outside Counsel of Record as 'attorneys who are not employees of a party to this action but are retained to represent or advise a party to this action and have appeared in this action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party." Mot., at 7:1-8. Ramey's argument misstates the record.

First, Mr. Ramey's law firm is not "small". Ramey has been counsel of record in one-thousand four hundred and four (1,404) patent litigations, one hundred and ninety-eight (198) cases in 2025 alone.[1] Lamkin Decl., ¶¶ 4-6, Exh. A. Mr. Ramey is currently litigating one hundred and sixty-one (161) active cases and has settled one thousand two hundred and forty-three (1,243) patent cases. *Id.*, at ¶¶ 8, Exh. B.

[1] This Court may take judicial notice of Ramey's record on Docket Navigator. *See, e.g., Koji IP, LLC v. Renesas Elecs. Am., Inc.*, No. 24-CV-03089-PHK, 2025 WL 917110, at *7 (N.D. Cal. Mar. 26, 2025) (noting the number of Ramey's then-active cases and remarking on "the volume-focused and quick-settlement nature of the Ramey law firm's practice[.]")

Second, this Court's Orders were not based on a legal construction of terms in the Protective Order, but on this Court's careful parsing of the factual record, determinations that are unlikely to be overturned under the clearly erroneous standard on appeal. *See* Order, ECF No. 324, at 4. This is not a "controlling question of law." *In re Cement*, at 1026 ("While Congress did not specifically define what it meant by "controlling," the legislative history of 1292(b) indicates that this section was to be used only in exceptional situations in which allowing an interlocutory appeal would avoid protracted and expensive litigation.").

Finally, the Court's question was much narrower than Ramey's incongruent framing: did Ramey violate this protective order by giving Netflix "Highly Confidential – Attorneys' Eyes Only" material to AiPi, who worked for/as a third-party litigation funder and was not counsel of record. Whether small firms in general may use contract or affiliated lawyers is a red herring. The order doesn't regulate law-firm staffing; Ramey can use whomever he likes as "staff," but he must follow the Protective Order, including having any alleged "vendors" sign the PO.

As to prong three (3) of the *in re Cement* test, Ramey does not address, nor can he meet prong (3), *i.e.*, an immediate appeal will not materially advance the ultimate termination of the litigation. See *In re Cement Antitrust Litig.* (MDL No. 296), 673 F.2d, at 1026. An appeal of this Court's fair and correct Orders will do nothing to advance the ultimate termination of his litigation, litigation that is nearing its end. Piecemeal appeals of this litigation are not necessary nor warranted under the relevant tests.

No basis for a stay. Finally, the request for a stay pending appeal should be denied as moot. Even if the Court were to certify, a stay is unwarranted. Ramey has shown no likelihood of success on the merits or serious legal question; the Court's finding of bad-faith violation of the Protective Order is well-supported and entitled to deference. Any harm to Ramey is purely monetary and recoverable with interest. Ramey claims financial hardship, but fails to support his claim. As noted above, Ramey's litigation record suggests he earns a substantial income, *supra*.

Finally, Ramey's request for equitable relief is inappropriate given the Court's finding of bad-faith conduct in violating the Protective Order.

Ramey's Motion should be denied in full.

Dated: November 26, 2025

Respectfully submitted,

By: */s/ Rachael Lamkin*

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